

REMARKS

Claims 12-21, 23-26, 29 and 31 have been amended. Claims 22, 27-28, and 30 have been canceled. Claims 1-11 were previously canceled in the Preliminary Amendment. These changes have been made to place the claims in better form for examination and to further obviate the 35 U.S.C. §112 rejections as set forth in the Office Action dated April 15, 2008. It is believed that none of these amendments constitute new matter. It is submitted that these amendments obviate the rejections. Withdrawal of these rejections is respectfully requested.

The Examiner has objected to claim 16 because "Capsicum" was misspelled. Applicant has corrected the spelling. Withdrawal of this objection is respectfully requested.

The Examiner has rejected claims 12-31 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner has rejected claim 12 as being an incomplete method claim. Applicant has amended claim 12 to complete the method steps. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claim 12 under 35 U.S.C. §112, second paragraph, as being indefinite. Specifically, the Examiner notes that in the Specification "nutritional value" is equated with "ascorbic acid concentration". Applicant has amended claim 12 to clarify "nutritional value". Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claim 12 under 35 U.S.C. §112, second paragraph, as being indefinite in regards to "manipulating". Applicant draws the Examiner's attention to page 4, line 31 through page 6, line 32 of the Specification in which "manipulation" is discussed in the context of determining which plants contain a recessive *y* allele or a recessive *cl* allele and then crossing these plants to obtain progeny plants with double recessive *yy* and *clcl* alleles. Manipulation is intended to refer to producing plants which carry both double recessive *y* alleles and double recessive *cl* alleles. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claim 13 and subsequent claims under 35 U.S.C. §112, second paragraph, because "y" and "cl" should be italicized. Applicant has amended claim 13 and subsequent claims to italicize "y" and "cl" in the appropriate places. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claim 14 and subsequent claims under 35 U.S.C. §112, second paragraph, because it is unclear what is retained in the "derived" product. Applicant has amended claim 14 and subsequent claims as suggested by the Examiner. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claim 18 under 35 U.S.C. §112, second paragraph, because "similar type" is unclear. Applicant has amended claim 18 and all subsequent recitations of "similar type" in claims 23 and 29. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claim 19 under 35 U.S.C. §112, second paragraph, because it is unclear which fruits of claim 18 are being referred to. Applicant has amended claim 18 and also claims 20-21 and 24-26. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 27 and 28 under 35 U.S.C. §112, second paragraph. Applicant has canceled claims 27 and 28. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claim 30 under 35 U.S.C. §112, second paragraph, because claim 30 is unclear. Applicant has canceled claim 30. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 27 and 28 under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to make and/or use the invention. Applicant has canceled claims 27 and 28. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 12-26 and 29-31 under 35 U.S.C. §112, first paragraph, as lacking enablement. Applicant respectfully submits that the claims are enabled. Applicant draws the Examiner's attention to page 5 of the Specification, lines

4-6 and lines 17-24 where the use of parent plants which comprise a *y* allele and/or a *cl* allele is discussed. To identify a plant comprising a *y* allele, one of ordinary skill in the art would use biochemical methods known in the art such as by using the restriction enzyme *Dra*1 to digest DNA followed by a probe for CSS which is known to be located near the *y* allele. Page 6, lines 3-8 discuss using CSS gene primers and PCR to locate the *y* allele in a parent pepper plant. To identify a parent pepper plant comprising a *cl* allele, one of ordinary skill in the art would use either microscopy to identify mature pepper fruit containing chromoplasts with chlorophyll or would use chromatography to identify mature pepper fruit with high levels of chlorophyll as discussed on page 6, lines 15-22. Once the appropriate parent pepper plants are identified, classical breeding techniques can be used to obtain pepper plants comprising homozygous recessive *y* and/or *cl* alleles. The techniques discussed in the Specification are all well known in the art and the claims are therefore enabled. Withdrawal of this rejection is respectfully requested.

In view of the above amendments and remarks, it is submitted that the claims satisfy the provisions of 35 U.S.C. § 112. Reconsideration of this application and an early notice of allowance are requested.

SIGNATURE OF APPLICANT, ATTORNEY OR AGENT REQUIRED					
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